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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

In re J.R., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. J.R., Defendant and Appellant.	A147835 (San Mateo County Super. Ct. No. 84914)

J.R. (the minor) admitted misdemeanor resisting a peace officer (Pen. Code, § 148, subd. (a)(1)).¹ The juvenile court declared the minor a ward of the court and placed him on probation (Welf. & Inst. Code, § 602).

The minor appeals, challenging various probation conditions under *People v. Lent* (1975) 15 Cal.3d 481 (*Lent*) and constitutional principles of vagueness and overbreadth. We strike certain probation conditions and remand the matter to the juvenile court for modification. In all other respects, we affirm.

¹ All undesignated statutory references are to the Penal Code.

FACTUAL AND PROCEDURAL BACKGROUND²

In February 2016, an Atherton police officer went to a local high school following a report that a student threatened a teacher. The officer saw the minor — then a freshman — place his hand into his front waistband and walk away; the officer attempted to get the minor's attention by honking his horn, but the minor ignored him and continued walking. Because the minor had his hand inside his waistband, the officer drew his pistol and ordered the minor to stop and to show his hands. In response, the minor yelled: "Fuck you, nigga I ain't doing this shit," and walked away. The officer grabbed the minor's arms and attempted, unsuccessfully, to restrain him. Another officer arrived and helped handcuff the minor. The minor spat at the officer and yelled: "You fucking racist pig nigga, you're only doing this cause I'm brown," and "Fuck you nigga, you ain't shit, drop that badge and you ain't shit out here on the street." The minor told the officer that if he had a gun, he would have shot the officer.

The minor eventually calmed down and described the incident to the police officer. He said he was in class, talking to his friend, when the teacher told him to stop talking. The teacher mimicked the minor, which was "disrespectful." The minor told the teacher, "You think you are shit here, but you ain't shit in the street[,]," which the teacher considered a threat, because the minor had pushed the teacher on a previous occasion. The teacher sent the minor to the vice principal's office. The teacher told the police officer that the minor looked the teacher up and down and said, "If you was in the hood you wouldn't [be] shit. You ain't nothing, you nothing in these streets" and referred to the teacher as a "bitch as[s] nigga," and a "snitch as[s] nigga."

Charges, Admission, and Probation Report

The prosecution filed a Welfare and Institutions Code section 602 petition alleging the minor resisted a peace officer (§ 148, subd. (a)(1)), assaulted a peace officer (§ 241, subd. (c)), and disturbed the peace (§ 415, subd. (2)). The minor admitted misdemeanor resisting a peace officer (§ 148, subd. (a)(1)).

² The facts underlying the offenses are taken from the probation report.

According to the probation report, the minor witnessed domestic violence between his parents before they separated. The minor resided with his mother; his father lived in Texas. He argued frequently with his mother. He had “several unexcused absences and is tardy to his classes. The Minor is earning three ‘F’s’ and two ‘D’s.’ His school discipline record reflects approximately 23 entries for behavior related to harassment, disruption, and obscene language.” The minor denied drinking alcohol, but “admitted to smoking marijuana once or twice.”

The probation report noted the February 2016 incident was the minor’s first offense, but that the police had been called to the minor’s school in December 2015 when the minor’s headphones were stolen. Angry about the theft, the minor went to an administrator’s office and “made a threat about getting a gun and killing someone.” The minor claimed his reference to “getting a gun and killing someone was . . . to playing a video game and the person he was going to kill was a character from the game. . . . [H]e had no intentions of hurting himself or anyone else.”

Regarding the February 2016 incident, the minor acknowledged he was wrong to take out his anger on the police officer. He also admitted having “friends who are ‘Nortenos,’ but denied being a gang member. The minor said they grew up together since they were in elementary school and he ‘can’t help that they grew up to be gang members.’ The minor said he often cuts class and goes with them to 7-[E]leven. The minor said if he does not go with them, they make fun of him” and call him derogatory names. According to the probation report, the minor’s friends are “a negative influence Although the Minor denied being a gang member, he admitted that some of the people he associates with are gang members.” The probation officer was also “extremely concern[ed] with the Minor’s ‘street’ language, which indicates . . . he may be more involved with gangs than what he is willing to admit. The Minor could not hold a conversation without using a ‘slang’ word in every sentence[.]”

According to the probation report, the minor and his family were “in crisis” and needed “services. The mother expressed that her poor parenting skills have not helped the Minor improve his behavior. . . . The Minor misses his father [I]f the Minor

fails to address the helplessness he felt as a child . . . he will continue to be a danger to the community. . . . [¶] [T]he Minor's mother is willing to participate in counseling services for the Minor She acknowledged she needs to learn positive parenting alternatives She welcomes probation services and any aid the Court may offer."

The probation report recommended various probation conditions, including conditions: (1) requiring him to submit to warrantless searches of his electronic devices and provide passwords (electronics search condition); (2) prohibiting him from accessing social media (social media condition); (3) requiring the minor's Internet usage to be monitored by probation, parents, or school officials, prohibiting the minor from possessing a computer attached to a modem or telephonic device, or which contains an internal modem, and prohibiting the minor from being on the Internet without school or parental supervision (Internet condition); (4) prohibiting him from using or possessing controlled substances and alcohol (controlled substances condition); and (5) prohibiting him from obtaining tattoos, piercings, or gang-related hair shavings (gang condition).

Dispositional Hearing

At the dispositional hearing, defense counsel objected to the gang condition, arguing the minor "is not a member of a gang. [¶] This case is not gang related. It has nothing to do with that. This just had to do with his misbehavior in class and his inappropriate response based on this classroom incident." The minor's counsel also objected to the alcohol portion of the controlled substances condition because the minor "is not using alcohol." Finally, counsel objected to the electronics and Internet conditions, contending the "facts of this case" did not justify those conditions, and it was not "reasonable" to restrict the minor's access to the Internet because "the Internet is used by almost everyone for so many purposes . . . I just don't think it is a reasonable condition."

In response, the court observed the minor "did reference a video game and talked about a character from the game. That was . . . the scenario for the threat." Defense counsel responded: "I think that was a previous incident that wasn't filed on" and the court remarked, "Right. But it is of concern." The probation officer opined the minor

“has a lot of verbiage when it comes down to snitching, cat, saying foul language — he has that verbiage, so it leads me to believe that he is involved and associating with Norteños.”

The court adjudged the minor a ward of the court (Welf. & Inst. Code, § 602), committed him to the Youth Services Center for 30 days, and placed him on probation with the conditions requested by probation. The court told the minor, “We are going to help you with the anger issue, and we are going to help your mom parent you. [¶] The main thing I am going to do to help is to put a whole bunch of rules on you so that those aren’t things you and your mom have to argue about in the future.” As to the gang condition, the court explained: “I am going to impose the gang condition[] . . . [as] prophylactic [¶] I think part of this issue is a feeling of a lack of power [¶] Being a gang member is something that makes a lot of people feel a lot more powerful and less alone. [¶] I believe he is much more involved than he is admitting. And we want to nip that in the bud before he loses his temper and does something really bad that he can’t apologize his way out of.”

DISCUSSION

A juvenile court placing a ward on probation “may impose and require any and all reasonable conditions that it may determine fitting and proper to the end that justice may be done and the reformation and rehabilitation of the ward enhanced.” (Welf. & Inst. Code, § 730, subd. (b); *In re Sheena K.* (2007) 40 Cal.4th 875, 889 (*Sheena K.*)). The scope of the juvenile court’s discretion in formulating terms of a minor’s probation is greater than that allowed for adult probationers “[b]ecause wards are thought to be more in need of guidance and supervision than adults and have more circumscribed constitutional rights, and because the juvenile court stands in the shoes of a parent when it asserts jurisdiction over a minor[.]” (*In re D.G.* (2010) 187 Cal.App.4th 47, 52.) The juvenile court’s discretion, however, is not absolute. (*In re Victor L.* (2010) 182 Cal.App.4th 902, 910 (*Victor L.*)).

I.

The Electronics Search Condition Is Valid Under Lent but Must Be More Narrowly Tailored

The electronics search condition provides: “Any electronic data storage and/or communication device under the Minor’s control and/or which the Minor has shared, partial or limited access, is subject to a full and complete search, by any probation officer, in any manner required to guarantee full disclosure by any probation officer, during the day or night, with or without . . . his . . . consent, with or without a search warrant, and without regard to probable and reasonable cause; [¶] The Minor shall provide encryption keys or passwords to the probation officer for any computer or electronic data storage devices, in his possession, custody or control and to which he has sole, shared, partial, or limited access[.]” The minor contends this condition is unreasonable under *Lent* and unconstitutionally overbroad.

A. The Electronics Search Condition Is Reasonably Related to Future Criminality

A probation condition is invalid under *Lent* if it: ““(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality”” (*People v. Olguin* (2008) 45 Cal.4th 375, 379-380 (*Olguin*), quoting *Lent, supra*, 15 Cal.3d at p. 486.) The *Lent* “test is conjunctive—all three prongs must be satisfied before a reviewing court will invalidate a probation term. [Citations.] As such, even if a condition of probation has no relationship to the crime of which a defendant was convicted and involves conduct that is not itself criminal, the condition is valid as long as the condition is reasonably related to preventing future criminality.” (*Ibid.*)

The Attorney General concedes the offense did not involve electronic devices, and that using such devices is not itself criminal. According to the Attorney General, however, the electronics search condition is valid under *Lent* because it is reasonably

related to preventing future criminality. We agree.³ “A condition of probation that enables a probation officer to supervise his or her charges effectively is . . . ‘reasonably related to future criminality.’ [Citation.]” (*Olguin, supra*, 45 Cal.4th at pp. 380-381.) Under *Olguin*, “effective supervision of a probationer deters, and is therefore related to, future criminality” and “upholding probation conditions through *Olguin* does not undermine the limits imposed by *Lent*” (*In re George F.* (2016) 248 Cal.App.4th 734, 741, review granted Sept. 14, 2016, S236397.)

Numerous courts — including this court — have upheld identical electronics search conditions as reasonably related to preventing future criminality. (See *In re A.S.* (2016) 245 Cal.App.4th 758, 770, review granted May 25, 2016, S233932 [the minor’s “history and circumstances mandate a degree of supervision which reasonably connects the electronic search condition to the prevention of future criminality”]; *In re P.O.* (2016) 246 Cal.App.4th 288, 295 [“the condition enables peace officers to review [the minor’s] electronic activity for indications that [the minor] has drugs or is otherwise engaged in activity in violation of his probation”]; *In re Patrick F.* (2015) 242 Cal.App.4th 104, 110, review granted Feb. 17, 2016, S231428 [“electronics search condition was reasonably related to future criminality even if it was not directly related to the underlying burglary”; the minor used marijuana and did not attend school regularly, both of which are ““precursors of serious criminality””]; *In re Alejandro R.* (2015) 243 Cal.App.4th 556, 566, review granted Mar. 9, 2016, S232240 [electronics search condition is a “permissible, and potentially critical, tool in helping the juvenile court . . . determine whether the ward is complying with the terms of his or her probation”].)

³ The minor did not, as the Attorney General contends, forfeit his challenge under *Lent*. At the dispositional hearing, counsel for the minor argued the factual circumstances did not justify the electronics search condition. The minor preserved the issue for appeal. The California Supreme Court has granted review in numerous cases on whether an electronics search condition is reasonable under *Lent*. (See, e.g., *In re Ricardo P.* (2015) 241 Cal.App.4th 676, review granted Feb. 17, 2016, S230923.)

Here, the minor had an anger management problem: he pushed a teacher, and threatened to kill a police officer. He smoked marijuana, and associated with members of the Norteños gang. The probation officer opined the minor “may be more involved with gangs than what he is willing to admit.” These circumstances amply support the probation officer’s conclusion that the minor was “in crisis” and needed “services” to prevent him from “becoming a danger to the community.” Here, the electronics search condition is reasonably related to deterring future criminality: it will help the probation department monitor the minor’s compliance with other probation conditions, including the condition that he avoid associating with gang members and abstain from using drugs and alcohol.⁴ (*People v. Ebertowski* (2014) 228 Cal.App.4th 1170, 1176-1177 [password condition necessary for probation officer to implement search, association, and gang conditions of probation].) The minor’s reliance on *In re Erica R.* (2015) 240 Cal.App.4th 907 and *In re J.B.* (2015) 242 Cal.App.4th 749 does not alter our conclusion.

B. The Electronics Search Condition Is Overbroad

The minor argues the electronics search condition is unconstitutionally overbroad because it violates his “privacy rights.” We review the minor’s constitutional challenges to this probation condition de novo, notwithstanding his failure to object in the juvenile court. (*Sheena K.*, *supra*, 40 Cal.4th at p. 888; *Victor L.*, *supra*, 182 Cal.App.4th at p. 907.)

When a probation condition imposes limitations on a person’s constitutional rights, it “‘must closely tailor those limitations to the purpose of the condition’” — that is, the probationer’s reformation and rehabilitation — “‘to avoid being invalidated as unconstitutionally overbroad.’” (*Olguin*, *supra*, 45 Cal.4th at p. 384; *In re Victor L.*, *supra*, 182 Cal.App.4th at p. 910.) “The essential question in an overbreadth challenge is the closeness of the fit between the legitimate purpose of the restriction and the burden it

⁴ In cases involving the imposition of gang-related probation conditions on juvenile offenders, “[w]hether the minor was currently connected with a gang has not been critical.” (*People v. Lopez* (1998) 66 Cal.App.4th 615, 624.) Such conditions have been upheld on the ground that “[a]ssociation with gang members is the first step to involvement in gang activity[.]” [Citation.]” (*Ibid.*)

imposes on the [probationer]’s constitutional rights—bearing in mind, of course, that perfection in such matters is impossible, and that practical necessity will justify some infringement.” (*In re E.O.* (2010) 188 Cal.App.4th 1149, 1153.) “““Even conditions which infringe on constitutional rights may not be invalid [as long as they are] tailored specifically to meet the needs of the juvenile.””” (*In re Tyrell J.* (1994) 8 Cal.4th 68, 82, disapproved on other grounds in *In re Jaime P.* (2006) 40 Cal.4th 128, 130.)

Like other courts, we agree the electronics search condition implicates the minor’s constitutional privacy rights and is not narrowly tailored to promote his rehabilitation and the public’s protection.⁵ (*In re P.O.*, *supra*, 246 Cal.App.4th at p. 298; *People v. Appleton* (2016) 245 Cal.App.4th 717, 719.) Here, the court did not tailor the condition by limiting the types of data (whether on an electronic device or accessible through an electronic device) that may be searched. Instead, the condition “permits review of all sorts of private information that is highly unlikely to shed any light on whether [the minor] is complying with the other conditions of his probation[.]” (*In re P.O.*, *supra*, 246 Cal.App.4th at p. 298.) The minor’s privacy interests may be infringed, but only to the extent the information searched is reasonably likely to yield evidence of gang activity, or other criminal activity and noncompliance with probation conditions. Accordingly, we strike the electronics search condition and remand to the juvenile court to impose a more narrowly focused condition that does not unduly infringe on the minor’s privacy rights.

⁵ We reject the minor’s claim that the electronics search condition is invalid because it violates third party privacy rights. The minor did not raise this issue in the juvenile court and, as a result, has forfeited the argument on appeal. (*In re Sheena K.*, *supra*, 40 Cal.4th at p. 885 [forfeiture rule applies to appellate claims of error “involving discretionary sentencing choices or unreasonable probation conditions”].) The minor’s claim also fails because he does not have standing to assert the rights of unidentified individuals who are not parties to this case. (*B.C. Cotton, Inc. v. Voss* (1995) 33 Cal.App.4th 929, 947-948.)

II.

The Social Media and Internet Conditions Are Valid Under Lent, but a Portion of the Internet Condition Requires Modification

The social media condition provides: “The Minor shall not access or participate in any Social Networking Site, including but not limited to Myspace.com. The Internet condition provides: “All Internet usage is subject to monitoring by Probation, parents or school officials; [¶] The Minor shall not possess a computer which is attached to a modem or telephonic device, or which has an internal modem; [¶] The Minor shall not be on the Internet without school or parental supervision[.]”

The minor contends the social media and Internet conditions are invalid under *Lent*. We disagree. These conditions are reasonably related to preventing future criminal activity, and are therefore valid under *Lent*. (See *People v. Navarro* (2016) 244 Cal.App.4th 1294, 1299 [Internet restriction did not relate to underlying crime, which did not involve a computer, but was “reasonably related to preventing future criminality”].) As discussed above, the minor had difficulty controlling his anger, and admitted playing a violent video game, which had a role in the minor’s violent threat in December 2015. Additionally, the minor associated with gang members. (See, e.g., *People v. Ebertowski*, *supra*, 228 Cal.App.4th at pp. 1172-1173 [gang condition upheld where the defendant threatened the police, and used social media accounts to promote gang activity].) The social media and Internet conditions will enable the probation department to monitor the minor’s compliance with the conditions of his probation, including the gang condition.

The minor also claims the social media and Internet conditions are overbroad. *Victor L.*, *supra*, 182 Cal.App.4th 902 — which considered almost identical probation conditions — is instructive. There, the defendant admitted possessing a dangerous weapon and the juvenile court imposed the following Internet restrictions: “(1) ‘The Minor shall not access or participate in any Social Networking Site, including but not limited to Myspace.com’; (2) ‘The Minor shall not use, possess or have access to a computer which is attached to a modem or telephonic device’; and (3) ‘The Minor shall not be on the Internet without school or parental supervision.’” (*Id.* at p. 923, fn.

omitted.) On appeal, the minor claimed the conditions were unconstitutionally overbroad. (*Ibid.*)

A division of this court declared itself “troubled” by the complete ban on access to computers attached to the Internet, and also by certain internal inconsistencies among the three conditions. (*Victor L.*, *supra*, 182 Cal.App.4th at p. 925.) The court noted: “The second Internet [restriction] prohibits all Internet usage, or even ‘access to’ a computer with Internet capability, whereas the first and third [restrictions] clearly contemplate that [the defendant] would be allowed Internet access with certain limitations” and observed “[i]t appears to us that the Internet provisions — part of a preprinted form — were intended to provide a graduated range of conditions restricting Internet access and were not intended to be checked off willy-nilly in all . . . cases. The first provision is the least restrictive in that it does not ban computer or Internet access, but prohibits only the use of ‘social networking sites.’” (*Id.* at pp. 925-926.) The court observed the second Internet restriction “prohibits all Internet usage, or even ‘access to’ a computer with Internet capability,” (*id.* at p. 925) and that the third restriction imposed a “medium level of restriction, allowing Internet access *only* under parental or school supervision. We believe the form calls for the probation officer and court to assess which level of Internet restriction is most appropriate for the minor in each case and to select the appropriate condition of probation accordingly. [¶] Still, selection of more than one Internet condition does not necessarily invalidate the computer-related conditions in their entirety.” (*Id.* at p. 926.)

Victor L. upheld the first and third Internet restrictions (barring access to social networking sites and preventing the minor from being on the Internet without supervision). (*Victor L.*, *supra*, 182 Cal.App.4th at p. 927.) We agree with the *Victor L.* court and reject the minor’s claim that the social media condition barring the minor from accessing social media is unconstitutionally overbroad. This condition is directed at reducing the opportunity and temptation for the minor to communicate with gang members. (*Id.* at p. 926 [probation condition intended to “minimize [the defendant’s] temptation to contact his gang friends”].) Thus, to the extent the minor’s constitutional

rights are burdened, that burden is narrowly tailored to address the legitimate purpose of the restriction. Standing in the shoes of his parent (*In re Antonio R.* (2000) 78 Cal.App.4th 937, 941), the juvenile court could properly prohibit the minor's use of social media accounts to assist in his reformation and rehabilitation. (*Sheena K.*, *supra*, 40 Cal.4th at p. 889.)

We reach a similar conclusion regarding the Internet condition prohibiting the minor from using the Internet without school or parental supervision. Like the social media condition, this condition minimizes the minor's temptation to contact his gang friends or to use the computer for illegal purposes by requiring adult supervision whenever he uses the Internet. This condition is not unconstitutionally overbroad. (*Victor L.*, *supra*, 182 Cal.App.4th at p. 926; *People v. Pirali* (2013) 217 Cal.App.4th 1341, 1349-1350; *In re Hudson* (2006) 143 Cal.App.4th 1, 11.)

The *Victor L.* court modified the second Internet restriction, which prohibited the use, possession, or access to a computer attached to a modem or telephonic device. It concluded the prohibition on ““use of” or ‘access to’ an Internet-enabled computer” conflicted with the other two conditions and could “ensnare a minor in a claimed probation violation even if he were engaged in completely innocent and legitimate use of a computer for scholarly or job-related purposes, and even if he were supervised by an adult during such use.” (*Victor L.*, *supra*, 182 Cal.App.4th at p. 926.) The court modified this restriction to prohibit *possession* of an Internet-enabled computer. (*Id.* at pp. 926-927.) Here, the minor contends the portion of the Internet condition prohibiting him from “possess[ing] a computer which is attached to a modem or telephonic device, or which has an internal modem” is overbroad because it bans him from owning a computer with Internet access.⁶

⁶ In *Victor L.*, the Attorney General argued this restriction “was intended to prevent [the defendant] from using a friend's computer or secreting away an Internet-enabled computer of his own for unsupervised use. This is especially a concern with laptops or other portable computers, for the same reasons discussed above with respect to portable communications devices.” (*Victor L.*, *supra*, 182 Cal.App.4th at p. 926.)

The *Victor L.* court determined this restriction “prohibits ‘possession’ of an Internet-enabled computer, [and] remains enforceable as a separate condition of probation designed to discourage and separately enjoin a juvenile probationer’s possession of an Internet-enabled computer for surreptitious use in contravention of the monitoring requirements and other restrictions on Internet access. It reasonably promotes enforceability of the other Internet conditions, as discussed with respect to portable communications devices.” (*Victor L.*, *supra*, 182 Cal.App.4th at p. 926.) We agree with the *Victor L.* court’s conclusion and conclude the portion of the Internet condition prohibiting the minor from possessing an Internet enabled computer is not overbroad. But we conclude the condition must be modified to specify whether the condition applies to mobile devices such as smart phones.⁷ It is for the trial court to determine if possession of an internet enabled mobile device by this minor should be prohibited, in order, for example, to be consistent with the condition that prohibits Internet access without school or parental supervision.

III.

Certain Probation Conditions Require an Explicit Knowledge Requirement

The controlled substances condition provides: “The Minor is not to use, possess, or be under the influence of any alcoholic beverages, controlled substances or tobacco, including electronic cigarettes[.]” The gang condition provides: “The Minor shall not obtain any new tattoos, brands, burns, or voluntary scarring. The Minor shall not obtain

⁷ “The rapid changes and innovations in technology, particularly those involving tablet computers, smart phones, digital cameras, and other electronic devices, as well as the ‘apps’ or applications created for such devices, make it difficult to formulate a condition that encompasses all of the possible devices that could be used to monitor law enforcement and probation activities. . . . Rather than attempt to list every type of prohibited electronic device—a list that may well be outdated by the time this opinion is filed—we believe the . . . problem presented by the [probation] condition is better addressed by listing . . . examples of prohibited items, and then describing the functions of the prohibited items or devices the trial court sought to curtail [T]hese vagueness and overbreadth concerns may be addressed by ‘incorporating a requirement that the probationer *know* the association, place, or item falls within the prohibited category.’ [Citation.]” (*People v. Contreras* (2015) 237 Cal.App.4th 868, 888.)

any piercing, voluntary eyebrow or hair shaving with gang significance or not in compliance with . . . Section 652(a).)

The minor argues the controlled substances, gang, and Internet conditions are “vague . . . in the absence of scienter requirements.” (Italics omitted.) While a juvenile court has broad discretion in setting probation conditions, “[a] probation condition ‘must be sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated,’ if it is to withstand a challenge on the ground of vagueness. [Citation.]” (*In re Sheena K.*, *supra*, 40 Cal.4th at p. 890.) “A restriction is unconstitutionally vague if it is not “‘sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated.’”” (*In re E.O.*, *supra*, 188 Cal.App.4th at p. 1153.) “‘The underpinning of a vagueness challenge is the due process concept of ‘fair warning.’”” (*People v. Navarro*, *supra*, 244 Cal.App.4th at p. 1300.) “A restriction failing this test does not give adequate notice — ‘fair warning’ — of the conduct proscribed.” (*In re E.O.*, *supra*, 188 Cal.App.4th at p. 1153.)

Our high court is considering whether certain probation conditions must include an explicit knowledge requirement. (*People v. Hall* (2015) 236 Cal.App.4th 1124, review granted September 9, 2015, S227193 [weapon and drug probation conditions]; *In re A.S.* (2014) 227 Cal.App.4th 400, review granted Sept. 24, 2014, S220280 [no contact probation conditions].) While awaiting guidance from our Supreme Court, we will continue to act on the side of caution and remand the matter for the juvenile court to include the explicit — if perhaps unnecessary — requirement that minor not:

- (1) *knowingly* “use, possess, or be under the influence of any alcoholic beverages, controlled substances or tobacco, including electronic cigarettes”;
- (2) *knowingly* “obtain any new tattoos, brands, burns, or voluntary scarring . . . any piercing, voluntary eyebrow or hair shaving with gang significance or not in compliance with . . . Section 652(a)”; or
- (3) *knowingly* use the Internet.

DISPOSITION

The electronic search condition, controlled substances condition, gang condition, and the portion of the Internet condition prohibiting the minor from “possess[ing] a computer which is attached to a modem or telephonic device, or which has an internal modem” are stricken and remanded to the juvenile court for modification consistent with the views expressed in this opinion. In all other respects, the judgment is affirmed.

Jones, P.J.

We concur:

Simons, J.

Bruiniers, J.